

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

James Joseph Jacobs,

Bky. Case No. 04-33000

And

Chapter 13 Case

Lisa Rene Jacobs,

Debtor(s).

NOTICE OF HEARING AND APPLICATION
FOR ALLOWANCE OF COMPENSATION AS
ATTORNEY FOR THE DEBTORS

To: Chapter 13 Trustee, United States Trustee and all parties in interest as specified in Local Rule 9013-3.

- I. Timothy C. Theisen the Applicant, as counsel for Debtors James and Lisa Jacobs, moves the Court for the Relief requested below and gives notice of hearing.
- II. The Court will hold a hearing on this Application at 1:45 p.m. on September 22, 2004, in Courtroom No: 228A, at the United States Courthouse, at 316 North Robert Street, in St. Paul, Minnesota.
- III. Any response to this application must be filed and delivered to Applicant no later than September 17, 2004, which is three days before the date set for hearing (excluding Saturdays, Sundays, or holidays), or filed and served by mail not later than September 13, 2004, which is seven days before the date set for the hearing (excluding Saturdays, Sundays, and holidays). UNLESS A RESPONSE OPPOSING THIS APPLICATION IS TIMELY FILED, THE COURT MAY GRANT THE APPLICATION WITHOUT A HEARING.
- IV. This Court has jurisdiction over this Application under 28 U. S. C. Section 158 and 1334, Bankruptcy Rule 5005 and Local Rule 2016-1. This Application arises under 11 U. S. C. Section 330. Applicant requests allowance of compensation for professional services

rendered and for reimbursement of expenses incurred in connection with this case. This is a core proceeding. The petition commencing this bankruptcy case was filed on May 19, 2004. The Debtor's Chapter 13 Plan was confirmed by an Order of this Court, dated July 16, 2004. This case is now pending in this Court.

- V. This is an interim application, for all fees paid to date. The Applicant has received payments in the following amounts, on the date set forth below, from Debtors and/or Chapter 13 trustee.

Date	Amount
5/12/04	\$325.00
6/16/04	\$300.00

The terms and condition of employment between the Applicant and the Debtor subject to Bankruptcy Court approval , are that Applicant will be paid \$1250.00 Dollars for services reasonably necessary to represent the Debtor and additional fees at \$195.00 per hour for matters beyond the ordinary and customary services rendered, including adversarial proceedings.

- VI. Applicant knows of no allowed administrative expenses unpaid as of the date of his Application.

- VII. Applicant has rendered professional services in its capacity as general bankruptcy counsel to the Debtor as follows:

- A. General Matters. Advised the Debtor and took action with respect to numerous general matters in the course of the bankruptcy proceeding including overall advice to the Debtor on alternative available under the Bankruptcy Code, the gathering of basic information concerning the Debtor, preparation of bankruptcy petition schedules, statement of affairs and the chapter 13 plan, preparation for and attendance at the Section 341 hearing, receiving proofs of claim and case status updates, and final closing of case upon discharge..
- B. Modified Plan – Secured creditor Wells Fargo threatened to object to confirmation, due to a different method of valuing the debtors' vehicle. Negotiations ensued, and a compromise was reached.

The Chapter 13 office also requested that the plan be modified, due to additional non-exempt assets that required lengthening of the plan in order to satisfy the "best interests of the creditors" test.

- C. Amended Schedule C – The debtors initially valued their house at \$125,000. However, the tax assessed value was \$148,700. In order to exempt this additional value, an amendment to Minnesota exemptions was necessary, which rendered other assets non-exempt. The amendment to Schedule C was done at the request of the Chapter 13 office, so as to obviate the need for the Chapter 13 office to object to the claimed exemptions.

While Applicant typically charges a flat fee of \$100.00 for correcting assets, the fees incurred for this will be waived.

D. Fee Application. Prepared and filed a fee application for Bankruptcy Court approval.

VIII. The amount of time and compensation sought for each task described above are as follows:

	<u>TASK</u>	<u>HOURS</u>	<u>DOLLARS</u>
A.	General Matters	6.6	\$1250.00(flat fee)
B.	Modified Plan	1.7	\$ 331.50
C.	Amended Schedule C	0.5	\$No Charge
D.	Fee Application	1.5	\$ 100.00(flat fee)
TOTALS:		10.3	\$1681.50

IX. Annexed hereto as Exhibit A, is an itemization of the time incurred by the Applicant stating the following:

A. Description of the task or proceeding.

B. A detailed list and description of each increment of time expended on the task or proceeding; and

C. The names of attorneys who expended the time.

X. The expenses to be sought as part of this Application include 145 copies at 20 cents, and \$10.73 cents in postage. This was incurred in serving the Modified Plan, for a total of \$39.73. Similar copying/postage fees will be incurred as part of this instant fee application, but are included in the \$100.00 flat fee for the fee application.

XI. The attorney who expended time on this matter is Timothy C. Theisen, who charges an hourly rate of \$195.00 Dollars per hour. The hourly rate is the usual and customary hourly rates charged by Applicant for the services of the individuals involved. It represents the customary compensation charged by comparably skilled practitioners in cases other than cases under Title 11 of the United States Code.

- XII. Applicant's services to the Debtor in this case have a reasonable value of not less than \$1681.50 Dollars. To date, the Applicant has received payments totaling \$625.00 Dollars from the Debtor.
- XIII. Applicant has incurred actual and necessary expenses in this case in the total amount of \$194.00 Dollars consisting of \$194.00 Dollars filing fee, which was paid by the debtor, plus the expenses listed at paragraph X above.
- XIV. All services for which compensation is requested by Applicant were performed on behalf of the Debtor and not on behalf of any committee, creditor or other person. The services were necessary to the administration of the successful completion of this case. The services were performed within a reasonable amount of time commensurate with the complexity, importance and nature of the problem, issue or task addressed.
- XV. The amount requested herein constitutes reasonable compensation for actual and necessary services rendered by Applicant based on the nature, the extent and value of such services, the time spent on such services and the costs of comparable services other than in a case under Title 11.
- XVI. Applicant has not entered into any agreement express or implied with any other party in interest, including the Debtor or any creditor, receiver, trustee or representative of any of them, or with any attorneys for such party in interest in the proceedings, for the purpose of fixing fees or other compensation to be paid to such party in interest in the proceedings for services rendered or expenses incurred in connection therewith from the assets of the estate in excess of the compensation allowed by law.

WHEREFORE, Applicant respectfully requests that the Court enter its Order (a) allowing compensation to Applicant in the amount of \$1681.50 Dollars and reimbursement of expenses in the amount of \$39.73 Dollars for a total of \$1721.23 Dollars; and (b) allowing Applicant to apply the \$625.00 he has already received toward said fees and expense, and (c) directing the Chapter 13 Trustee to pay the amount of \$1096.23 Dollars to Applicant from payments received by the Trustee pursuant to the Debtor's Chapter 13 Plan.

I Tim Theisen, attorney for debtor, hereby declare that the above-stated facts are true and correct to the best of my knowledge and belief.

Dated: August 16, 2004

_____/e/ Timothy C. Theisen_____
Timothy C. Theisen
229 Jackson Street
Suite 105
Anoka, MN 55303
Telephone No. (763) 421-0965

A – GENERAL MATTERS

4/13/04	initial consultation with client (in Mpls); open file	1
4/16	receive worksheet; start working on petition	1
4/19	letter to atty Reiter re: reinstatement figure	.2
4/21	receive reinstatement letter; scan & email to client	.3
4/23	finalize petition; draft plan; convert to PDF & email to client	1
5/19	receive signature page; scan & efile	.4
5/20	fax to attorney Reiter to stop foreclosure	.2
5/23	receive notice of 341; calendar; letter to client	.4
6/7	receive request for service from WF; add to internal matrix	.2
6/16	check claims online; attend cr mtg; including one way travel	1.5
7/15	receive claim from Wells Fargo	.2
7/20	receive order confirming plan	<u>.2</u>
Total		6.6

B – MODIFIED PLAN

6/9/04	Fax from Wells Fargo; forward to client	.2
6/22	Call from Andy at Wells Fargo; note to file; 2 nd call from Andy at Wells Fargo; call client; draft Modified Plan; e-mail to client	1
6/29	Call client; note to file	.1
7/2	Receive signature page; scan, serve and file (rush service)	<u>.4</u>
Total		1.7

C – AMENDED SCHEDULE C

No Charge	.5
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EXHIBIT A

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

James Joseph Jacobs,

Bky. Case No. 04-33000

and

Chapter 13 Case

Lisa Rene Jacobs,

ORDER

Debtor(s).

This matter came on for hearing before the Honorable Dennis O'Brien, in Room 228A at the US Bankruptcy Court, St. Paul, MN on the motion of Timothy C. Theisen (The Applicant) for allowance and payment of legal fees and reimbursement of costs.

Upon all the files, records and proceedings herein and there being no objection filed with the Court, IT IS HEREBY ORDERED:

1. The Applicant is awarded \$1681.50 Dollars as reasonable compensation for legal services and \$39.73 Dollars for reimbursement for actual and necessary costs of a total of \$1721.23 Dollars.
2. The Applicant may apply the \$625.00 Dollars he has received from Debtor in partial satisfaction of his award.
3. The Chapter 13 Trustee is authorized and directed to pay the sum of \$1096.23 Dollars to Applicant as funds become available pursuant to the Debtor's Chapter 13 Plan.

Dated: _____

Dennis D. O'Brien
Judge of Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Case No. 04-33000
Chapter 13

James and Lisa Jacobs

**UNSWORN CERTIFICATE OF
SERVICE**

Debtor(s)

I, Melinda K. Rost, declare under penalty of perjury that on August 17, 2004 I mailed copies of the foregoing Notice of Hearing and Application for Allowance of Compensation as Attorney for the Debtors by first class mail postage prepaid to each entity named below at the address stated below for each entity:

US Trustee
1015 United States Courthouse
300 South 4th Street
Minneapolis, MN 55401

Jasmine Z Keller
310 Plymouth Building
12 South 6th Street
Minneapolis, MN 55402

James and Lisa Jacobs
1551 North Concord Street
South St. Paul, MN 55075

All Creditors
(See Attached Matrix)

Executed on: August 17, 2004

Signed: ___/e/ Melinda K. Rost_____
Melinda K. Rost
229 Jackson Street
Suite 105
Anoka, MN 55303

AMERICOLLECT
814 S. 8TH STREET
PO BOX 1566
MANITOWOA, WI 54221-1566

BEST BUY
7601 PENN AVENUE SOUTH
RICHFIELD, MN 55423

CERTGEY PAYMENT RECOVERY SERVICE
CLAIMS ACCOUNTING
PO BOX 30272
TAMPA, FL 33630-3272

FROST-ANNETT COMPANY
PO BOX 198988
NASHVILLE, TN 37219-8988

INTERNAL REVENUE SERVICE
PO BOX 970011
ST. LOUIS, MO 63197-0011

JC PENNEY
PO BOX 960001
ORLANDO, FL 32896-0001

KMART
7191 NORTH 10TH STREET
OAKDALE, MN 55128

LTD COMMODITIES
PO BOX 702
BANNOCKBURN, IL 60015-0702

MARK PITZELE
1550 UTICA AVENUE SOUTH SUITE 500
ST. LOUIS PARK, MN 55416

MCCALLA RAYMER ET AL
BANKRUPTCY DEPARTMENT
1544 OLD ALABAMA ROAD
ROSWELL, GA 30076

MCDONALDS
3045 HOLIDAY LANE
EAGAN, MN 55121

MINNESOTA DEPARTMENT OF REVENUE
PO BOX 64054
ST. PAUL, MN 55164-0054

NCO FINANCIAL SYSTEMS
PO BOX 41457
PHILADELPHIA, PA 19101-1457

PROVIDIAN
PO BOX 9553
MANCHESTER, NH 03108-9553

RAINBOW FOODS
8000 EXCELSIOR BOULEVARD
HOPKINS, MN 55343

RETAILERS NATIONAL BANK
PO BOX 59231
MINNEAPOLIS, MN 55459-0228

RMS
260 E. WENTWORTH AVENUE
W. ST. PAUL, MN 55118

SEARS
425 RICE STREET
ST. PAUL, MN 55103

SOUTH ST. PAUL SCHOOLS KAPOZIA
104 5TH AVENUE SOUTH
SOUTH ST. PAUL, MN 55075

SPORTS STAR PHOTOGRAPHY
PO BOX 35368
TULSA, OK 74153

TARGET CORPORATION
PO BOX 038994
TUSCALOOSA, AL 35403-8994

TARGET RETAILERS NATIONAL BANK
PO BOX 59231
MINNEAPOLIS, MN 55459-0228

TRANSWORLD SYSTEMS INC.
1611 W. COUNTY ROAD B, #306
ST. PAUL, MN 55113

WELLS FARGO
PO BOX 14544
DES MOINES, IA 50306-1406

WELLS FARGO FINANCIAL
5448 S. ROBERT TRAIL
INVER GROVE HEIGHTS, MN 55077-1406

WOLPOFF & ABRAMSON
TWO IRVINGTON CENTER
702 KING FARM BOULEVARD
ROCKVILLE, MD 20850-5775

XCEL ENERGY
PO BOX 9477
MINNEAPOLIS, MN 55484-9477